

CHAPTER 256

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 19-1308

BY REPRESENTATIVE(S) Singer and Landgraf, Arndt, Bird, Buckner, Buentello, Caraveo, Cutter, Duran, Exum, Froelich, Galindo, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kipp, McCluskie, Michaelson Jenet, Mullica, Pelton, Sandridge, Sirota, Snyder, Sullivan, Titone, Valdez A., Valdez D., Becker;
also SENATOR(S) Moreno and Rankin, Bridges, Court, Crowder, Ginal, Pettersen, Priola, Story, Tate, Todd, Winter, Zenzinger.

AN ACT

CONCERNING FOSTER CARE PREVENTION SERVICES TO ALIGN CURRENT STANDARDS WITH THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 5.4 to title 26 as follows:

ARTICLE 5.4
Foster Care Prevention Services

26-5.4-101. Legislative declaration. (1) THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT" WAS ENACTED ON FEBRUARY 9, 2018. IN ORDER TO COMPLY WITH THE PROVISIONS OF THE "FAMILY FIRST PREVENTION SERVICES ACT", THE GENERAL ASSEMBLY FINDS IT IS NECESSARY TO UPDATE CURRENT STATUTES TO ENABLE COLORADO TO PROVIDE ENHANCED SUPPORT TO CHILDREN, YOUTH, AND THEIR FAMILIES IN ORDER TO PREVENT FOSTER CARE PLACEMENTS.

(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO TREAT CHILDREN AND YOUTH IN-HOME OR WITH A KIN CAREGIVER WHEN DOING SO SERVES THE SAFETY, PERMANENT PLACEMENT, AND WELL-BEING OF THE CHILD OR YOUTH.

26-5.4-102. Definitions. AS USED IN THIS ARTICLE 5.4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "FOSTER CARE PREVENTION SERVICES" MEANS MENTAL HEALTH AND SUBSTANCE ABUSE PREVENTION AND TREATMENT SERVICES, IN-HOME PARENT SKILL-BASED PROGRAMS, KINSHIP NAVIGATOR PROGRAMS, AND OTHER PROGRAMS

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ELIGIBLE FOR REIMBURSEMENT UNDER THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT" THAT ARE TRAUMA-INFORMED, PROMISING, SUPPORTED OR WELL-SUPPORTED, AND PROVIDED TO PREVENT FOSTER CARE PLACEMENT.

(2) "QUALIFIED RESIDENTIAL TREATMENT PROGRAM" MEANS A LICENSED AND ACCREDITED PROGRAM THAT HAS A TRAUMA-INFORMED TREATMENT MODEL THAT IS DESIGNED TO ADDRESS THE CHILD'S OR YOUTH'S NEEDS, INCLUDING CLINICAL NEEDS, AS APPROPRIATE, OF CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL OR BEHAVIORAL DISORDERS OR DISTURBANCES IN ACCORDANCE WITH SECTION 201(a)(4) OF THE FEDERAL "FAMILIES FIRST PREVENTION SERVICES ACT", AND IS ABLE TO IMPLEMENT THE TREATMENT IDENTIFIED FOR THE CHILD OR YOUTH BY THE ASSESSMENT OF THE CHILD OR YOUTH REQUIRED IN SECTION 19-1-115 (4)(e)(I).

(3) "TRAUMA-INFORMED" REFERS TO THE SERVICES TO BE PROVIDED TO OR ON BEHALF OF A CHILD OR YOUTH UNDER AN ORGANIZATIONAL STRUCTURE AND TREATMENT FRAMEWORK THAT INVOLVES UNDERSTANDING, RECOGNIZING, AND RESPONDING TO THE EFFECTS OF ALL TYPES OF TRAUMA IN ACCORDANCE WITH RECOGNIZED PRINCIPLES OF A TRAUMA-INFORMED APPROACH AND TRAUMA-SPECIFIC INTERVENTIONS TO ADDRESS TRAUMA'S CONSEQUENCES AND FACILITATE HEALING.

26-5.4-103. Foster care prevention services program - rules. (1) THE STATE DEPARTMENT IS AUTHORIZED TO INCLUDE IN THE STATE'S FIVE-YEAR TITLE IV-E PREVENTION PLAN, AS DEFINED IN 42 U.S.C. SEC. 671, THE ESTABLISHMENT AND IMPLEMENTATION OF A FOSTER CARE PREVENTION SERVICES PROGRAM FOR FAMILIES WITH CHILDREN AND YOUTH WHO ARE CANDIDATES FOR FOSTER CARE BUT WHO CAN SAFELY REMAIN AT HOME OR IN A KINSHIP PLACEMENT WITH RECEIPT OF SERVICES, INCLUDING CHILDREN AND YOUTH WHO, WITHOUT INTERVENTION, RISK INVOLVEMENT WITH THE CHILD WELFARE SYSTEM AS ESTABLISHED BY RULE OF THE STATE BOARD. THE STATE DEPARTMENT SHALL PROMULGATE RULES SETTING FORTH PROCEDURES REGARDING THE PROVISION OF THESE SERVICES.

(2) NOTHING IN THIS ARTICLE 5.4 SHALL PREVENT THE STATE DEPARTMENT FROM COMPLYING WITH FEDERAL REQUIREMENTS FOR A FOSTER CARE PREVENTION SERVICES PROGRAM IN ORDER FOR THE STATE TO QUALIFY FOR FEDERAL MONEY UNDER THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED.

26-5.4-104. Eligibility requirements - period of eligibility - services available - rules. (1) CHILDREN AND YOUTH AND THEIR PARENTS, LEGAL CUSTODIANS, LEGAL GUARDIANS, OR KIN CAREGIVERS ARE ELIGIBLE FOR FOSTER CARE PREVENTION SERVICES WHEN THEIR NEEDS FOR SERVICES ARE DIRECTLY RELATED TO THE SAFETY, PERMANENT PLACEMENT, OR WELL-BEING OF THE CHILD OR YOUTH, OR TO PREVENT THE CHILD OR YOUTH FROM ENTERING THE FOSTER CARE SYSTEM.

(2) FOSTER CARE PREVENTION SERVICES MAY BE AUTHORIZED FOR UP TO TWELVE MONTHS PER EPISODE OF ELIGIBILITY.

(3) FOSTER CARE PREVENTION SERVICES PROVIDED PURSUANT TO THIS ARTICLE 5.4 MUST BE DEFINED IN THE CHILD'S OR YOUTH'S PREVENTION PLAN, AS DEFINED THROUGH RULES PROMULGATED BY THE STATE BOARD.

26-5.4-105. Implementation of article - federal authorization - request for

funding. THE STATE DEPARTMENT SHALL IMPLEMENT THE PROVISIONS OF THIS ARTICLE 5.4 AND THE PROVISIONS OF TITLES 19 AND 26 EXECUTING THE UTILIZATION OF FOSTER CARE PREVENTION SERVICES AND QUALIFIED RESIDENTIAL TREATMENT PROGRAMS WHEN THE FEDERAL GOVERNMENT APPROVES COLORADO'S FIVE-YEAR TITLE IV-E PREVENTION PLAN, AT WHICH TIME THE DEPARTMENT MAY SUBMIT A BUDGET REQUEST TO THE JOINT BUDGET COMMITTEE FOR NECESSARY FUNDING TO IMPLEMENT THE PLAN.

SECTION 2. In Colorado Revised Statutes, 19-1-102, **add** (1.9) as follows:

19-1-102. Legislative declaration. (1.9) THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT" WAS ENACTED ON FEBRUARY 9, 2018. IN ORDER TO COMPLY WITH THE PROVISIONS OF THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT", THE GENERAL ASSEMBLY FINDS THAT IT IS NECESSARY TO UPDATE CURRENT STATUTES TO ENABLE COLORADO TO PROVIDE ENHANCED SUPPORT TO CHILDREN, YOUTH, AND THEIR FAMILIES IN ORDER TO PREVENT FOSTER CARE PLACEMENTS. THE STATE DEPARTMENT SHALL IMPLEMENT THE UPDATED PROVISIONS IN SECTIONS 19-1-103, 19-1-115, 19-3-208, AND 19-3-308 UTILIZING FOSTER CARE PREVENTION SERVICES AND QUALIFIED RESIDENTIAL TREATMENT PROGRAMS WHEN THE FEDERAL GOVERNMENT APPROVES COLORADO'S FIVE-YEAR TITLE IV-E PREVENTION PLAN, AND SUBJECT TO AVAILABLE GENERAL FUND APPROPRIATIONS OR FEDERAL FUNDING.

SECTION 3. In Colorado Revised Statutes, 19-1-103, **add** (51.7), (87.7), (87.9), and (109.5) as follows:

19-1-103. Definitions. As used in this title 19 or in the specified portion of this title 19, unless the context otherwise requires:

(51.7) "FOSTER CARE PREVENTION SERVICES" MEANS MENTAL HEALTH AND SUBSTANCE ABUSE PREVENTION AND TREATMENT SERVICES, IN-HOME PARENT SKILL-BASED PROGRAMS, KINSHIP NAVIGATOR PROGRAMS, AND OTHER PROGRAMS ELIGIBLE FOR REIMBURSEMENT UNDER THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT" THAT ARE TRAUMA-INFORMED, PROMISING, SUPPORTED OR WELL-SUPPORTED, AND PROVIDED TO PREVENT FOSTER CARE PLACEMENT.

(87.7) "QUALIFIED INDIVIDUAL" MEANS A TRAINED PROFESSIONAL OR LICENSED CLINICIAN, AS DEFINED IN THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT".

(87.9) "QUALIFIED RESIDENTIAL TREATMENT PROGRAM" MEANS A LICENSED AND ACCREDITED PROGRAM THAT HAS A TRAUMA-INFORMED TREATMENT MODEL THAT IS DESIGNED TO ADDRESS THE CHILD'S OR YOUTH'S NEEDS, INCLUDING CLINICAL NEEDS, AS APPROPRIATE, OF CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL OR BEHAVIORAL DISORDERS OR DISTURBANCES IN ACCORDANCE WITH SECTION 201(a)(4) OF THE FEDERAL "FAMILIES FIRST PREVENTION SERVICES ACT", AND IS ABLE TO IMPLEMENT THE TREATMENT IDENTIFIED FOR THE CHILD OR YOUTH BY THE ASSESSMENT OF THE CHILD REQUIRED IN SECTION 19-1-115 (4)(e)(I).

(109.5) "TRAUMA-INFORMED" REFERS TO THE SERVICES TO BE PROVIDED TO OR ON BEHALF OF A CHILD OR YOUTH UNDER AN ORGANIZATIONAL STRUCTURE AND

TREATMENT FRAMEWORK THAT INVOLVES UNDERSTANDING, RECOGNIZING, AND RESPONDING TO THE EFFECTS OF ALL TYPES OF TRAUMA IN ACCORDANCE WITH RECOGNIZED PRINCIPLES OF A TRAUMA-INFORMED APPROACH AND TRAUMA-SPECIFIC INTERVENTIONS TO ADDRESS TRAUMA'S CONSEQUENCES AND FACILITATE HEALING.

SECTION 4. In Colorado Revised Statutes, 19-1-115, **add** (4)(e), (4)(f), and (4.5) as follows:

19-1-115. Legal custody - guardianship - placement out of the home - petition for review for need of placement. (4) (e) WHENEVER A CHILD IS PLACED IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM, A FAMILY OR JUVENILE COURT, OR, IF THERE IS NO OBJECTION, THE ADMINISTRATIVE REVIEW DIVISION OF THE DEPARTMENT OF HUMAN SERVICES, SHALL, WITHIN SIXTY DAYS:

(I) CONSIDER THE ASSESSMENT, DETERMINATION, AND DOCUMENTATION MADE BY THE QUALIFIED INDIVIDUAL;

(II) DETERMINE WHETHER THE NEEDS OF THE CHILD CAN BE MET THROUGH PLACEMENT WITH A PARENT, LEGAL GUARDIAN, LEGAL CUSTODIAN, KIN CAREGIVER, OR IN A FOSTER CARE HOME, OR WHETHER PLACEMENT OF THE CHILD IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM PROVIDES THE MOST EFFECTIVE AND APPROPRIATE LEVEL OF CARE FOR THE CHILD IN THE LEAST RESTRICTIVE ENVIRONMENT, AND WHETHER THAT PLACEMENT IS CONSISTENT WITH THE SHORT- AND LONG-TERM GOALS, INCLUDING MENTAL, BEHAVIORAL, AND PHYSICAL HEALTH GOALS, FOR THE CHILD AS SPECIFIED IN THE PERMANENCY PLAN FOR THE CHILD OR AS OUTLINED IN THE FAMILY SERVICES PLAN; AND

(III) APPROVE OR DISAPPROVE OF THE PLACEMENT.

(f) AS LONG AS A CHILD REMAINS IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM, THE COUNTY DEPARTMENT SHALL SUBMIT EVIDENCE AT EACH REVIEW AND EACH PERMANENCY HEARING HELD WITH RESPECT TO THE CHILD:

(I) DEMONSTRATING THAT ONGOING ASSESSMENT OF THE STRENGTHS AND NEEDS OF THE CHILD CONTINUES TO SUPPORT THE DETERMINATION THAT THE NEEDS OF THE CHILD CANNOT BE MET THROUGH PLACEMENT WITH A PARENT, LEGAL GUARDIAN, LEGAL CUSTODIAN, KIN CAREGIVER, OR IN A FOSTER FAMILY HOME; AND THAT THE PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM PROVIDES THE MOST EFFECTIVE AND APPROPRIATE LEVEL OF CARE FOR THE CHILD IN THE LEAST RESTRICTIVE ENVIRONMENT; AND THAT THE PLACEMENT IS CONSISTENT WITH THE SHORT- AND LONG-TERM GOALS FOR THE CHILD AS SPECIFIED IN THE PERMANENCY PLAN FOR THE CHILD, OR AS OUTLINED IN THE FAMILY SERVICES PLAN;

(II) DOCUMENTING THE SPECIFIC TREATMENT OR SERVICE NEEDS THAT WILL BE MET FOR THE CHILD IN THE PLACEMENT AND THE LENGTH OF TIME THE CHILD IS EXPECTED TO NEED TREATMENT OR SERVICES; AND

(III) DOCUMENTING THE EFFORTS MADE BY THE COUNTY TO PREPARE THE CHILD TO RETURN HOME OR TO BE PLACED WITH A FIT AND WILLING KIN CAREGIVER, A LEGAL GUARDIAN, LEGAL CUSTODIAN, OR AN ADOPTIVE PARENT, OR IN A FOSTER FAMILY.

(4.5) THE DEPARTMENT OF HUMAN SERVICES SHALL IMPLEMENT THE PROVISIONS OF SUBSECTION (4)(e) AND (4)(f) OF THIS SECTION WHEN THE FEDERAL GOVERNMENT APPROVES COLORADO'S FIVE-YEAR TITLE IV-E PREVENTION PLAN, AT WHICH TIME THE DEPARTMENT OF HUMAN SERVICES MAY SUBMIT A BUDGET REQUEST TO THE JOINT BUDGET COMMITTEE FOR NECESSARY FUNDING TO IMPLEMENT THE PLAN.

SECTION 5. In Colorado Revised Statutes, 19-3-208, **amend** (2)(d) introductory portion, (2)(d)(VIII), and (2)(d)(IX); and **add** (2)(d)(X) as follows:

19-3-208. Services - county required to provide - rules - definitions. (2) (d) The following services ~~shall~~ **must** be made available and provided based upon the state's capacity to increase federal funding or any other ~~moneys~~ MONEY appropriated for these services and as determined necessary and appropriate by individual case plans:

(VIII) Financial services in order to prevent placement; ~~and~~

(IX) Family preservation services, which are brief, comprehensive, and intensive services provided to prevent the out-of-home placement of children or to promote the safe return of children to the home; AND

(X) FOSTER CARE PREVENTION SERVICES.

SECTION 6. In Colorado Revised Statutes, 19-3-308, **add** (13) as follows:

19-3-308. Action upon report of intrafamilial, institutional, or third-party abuse - investigations - child protection team - rules - report. (13) UPON THE RECEIPT OF A REPORT OF INTRAFAMILIAL ABUSE OR NEGLECT OR HUMAN TRAFFICKING, OR A REPORT THAT A FAMILY MAY BE ELIGIBLE FOR FOSTER CARE PREVENTION SERVICES, AS DEFINED IN SECTION 26-5.4-102 (1), THE COUNTY DEPARTMENT MAY PROVIDE FOSTER CARE PREVENTION SERVICES FOR A CHILD AND THE PARENTS OR KIN CAREGIVERS OF THE CHILD WHEN THE NEEDS OF THE CHILD ARE DIRECTLY RELATED TO THE SAFETY, PERMANENT PLACEMENT, OR WELL-BEING OF THE CHILD OR TO PREVENT THE CHILD FROM ENTERING THE FOSTER CARE SYSTEM.

SECTION 7. In Colorado Revised Statutes, 26-1-109, **amend** (4.5) as follows:

26-1-109. Cooperation with federal government - grants-in-aid. (4.5) In addition to the powers granted the state department in subsection (4) of this section, the state department shall take necessary measures to obtain increased federal reimbursement ~~moneys~~ MONEY available under the Title IV-E program created under the federal "Social Security Act", as amended, based on the out-of-home placements, FOSTER CARE PREVENTION SERVICES, AS DEFINED IN SECTION 26-5.4-102 (1), and alternative care treatment by county departments of children eligible for Title IV-E federal assistance, which ~~moneys~~ MONEY shall be allocated to county departments in proportion to each county's eligible placements, to help defray program costs. Nothing in this subsection (4.5) shall be construed to allow counties to continue to receive an amount equal to the increased funding in the event the said funding is no longer available from the federal government.

SECTION 8. In Colorado Revised Statutes, 26-1-201, **amend** (1)(aa) and

(1)(bb); and **add** (1)(cc) as follows:

26-1-201. Programs administered - services provided - department of human services. (1) This section specifies the programs to be administered and the services to be provided by the department of human services. These programs and services include the following:

(aa) The Colorado mental health institute at Pueblo, as specified in article 93 of title 27; ~~C.R.S.~~; and

(bb) The Colorado mental health institute at Fort Logan, as specified in article 94 of title 27; ~~C.R.S.~~ AND

(cc) FOSTER CARE PREVENTION SERVICES, AS DEFINED IN SECTION 26-5.4-102 (1) AND AUTHORIZED PURSUANT TO THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT.

SECTION 9. In Colorado Revised Statutes, 26-5-101, **amend** (3) introductory portion and (3)(n); and **add** (3)(p) as follows:

26-5-101. Definitions. As used in this article 5, unless the context otherwise requires:

(3) "Child welfare services" means the provision of necessary shelter, sustenance, and guidance to or for children who are or who, if such services are not provided, are likely to become neglected or dependent, as defined in section 19-3-102. ~~C.R.S.~~ "Child welfare services" includes but is not limited to:

(n) Services described in section 19-3-208; ~~C.R.S.~~; and

(p) FOSTER CARE PREVENTION SERVICES, AS DEFINED IN SECTION 26-5.4-102 (1).

SECTION 10. In Colorado Revised Statutes, 26-5-104, **amend** (6.2)(d) as follows:

26-5-104. Funding of child welfare services - rules - report - provider contracts - funding mechanism review - fund - definitions - rules - repeal. (6.2) For the purposes of this section, unless the context otherwise requires:

(d) "Workload" means the number of child welfare child abuse and neglect hotline calls, referrals, assessments, open cases, out-of-home placements, IN-HOME SERVICES, new adoptions, RELATIVE GUARDIAN ASSISTANCE, and adoption subsidies being handled by a county department of human or social services.

SECTION 11. In Colorado Revised Statutes, 26-6-102, **amend** (33); and **add** (30.5) as follows:

26-6-102. Definitions. As used in this article 6, unless the context otherwise requires:

(30.5) "QUALIFIED RESIDENTIAL TREATMENT PROGRAM" MEANS A LICENSED AND

ACCREDITED PROGRAM THAT HAS A TRAUMA-INFORMED TREATMENT MODEL THAT IS DESIGNED TO ADDRESS THE CHILD'S OR YOUTH'S NEEDS, INCLUDING CLINICAL NEEDS, AS APPROPRIATE, OF CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL OR BEHAVIORAL DISORDERS OR DISTURBANCES IN ACCORDANCE WITH SECTION 201(a)(4) OF THE FEDERAL "FAMILIES FIRST PREVENTION SERVICES ACT", AND IS ABLE TO IMPLEMENT THE TREATMENT IDENTIFIED FOR THE CHILD OR YOUTH BY THE ASSESSMENT OF THE CHILD OR YOUTH REQUIRED IN SECTION 19-1-115 (4)(e)(I).

(33) "Residential child care facility" means a facility licensed by the state department pursuant to this part 1 to provide twenty-four-hour group care and treatment for five or more children operated under private, public, or nonprofit sponsorship. "Residential child care facility" includes community-based residential child care facilities, QUALIFIED RESIDENTIAL TREATMENT PROGRAMS, AS DEFINED IN SECTION 26-5.4-102 (2), shelter facilities, and therapeutic residential child care facilities as defined in rule by the state board, and psychiatric residential treatment facilities as defined in section 25.5-4-103 (19.5). ~~C.R.S.~~ A residential child care facility may be eligible for designation by the executive director of the state department pursuant to article 65 of title 27. ~~C.R.S.~~

SECTION 12. In Colorado Revised Statutes, **add** 27-66-110 as follows:

27-66-110. Trauma-informed care standards of approval. THE OFFICE OF BEHAVIORAL HEALTH SHALL ESTABLISH CARE STANDARDS AND AN APPROVAL PROCESS THAT A QUALIFIED RESIDENTIAL TREATMENT PROGRAM, AS DEFINED IN SECTION 26-6-102 (30.5), MUST MEET TO ENSURE THAT QUALIFIED RESIDENTIAL TREATMENT PROGRAMS HAVE A TRAUMA-INFORMED TREATMENT MODEL THAT ADDRESSES THE NEEDS OF CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL OR BEHAVIORAL HEALTH DISORDERS OR DISTURBANCES.

SECTION 13. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 23, 2019